

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 12**

HILL YORK CORPORATION¹

Employer

and

Case 12-RC-8449

**SHEET METAL WORKERS
INTERNATIONAL ASSOCIATION,
LOCAL UNION 32, affiliated with
SHEET METAL WORKERS
INTERNATIONAL ASSOCIATION, AFL-CIO**

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,² the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.³
3. Petitioner is a labor organization within the meaning of the Act.

¹ The Employer's name appears as amended at the hearing.

² The briefs submitted by the parties have been carefully considered.

³ The Employer is a Florida corporation engaged in the business of manufacturing and installing air conditioning and duct systems. The Employer has an office and place of business located at 2125 S. Andrews Avenue, Fort Lauderdale, Florida. During the past 12 months, the Employer, in conducting its business operations described above, directly purchased and received at its Ft. Lauderdale facility products, goods, and materials valued in excess of \$50,000 directly from points located outside the State of Florida.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

Positions of the Parties

At the hearing, the Petitioner amended the petition to seek a bargaining unit consisting of all employees engaged in the manufacture of heating, ventilation, and air conditioning duct work, regardless of the type of material used, at the Employer's facility at 2125 S. Andrews Avenue, in Fort Lauderdale, Florida, and all employees engaged in the installation of heating, ventilation and air conditioning duct work, regardless of the type of material used, in Miami-Dade and Broward counties in Florida; excluding pipefitters, guards, clerical workers, and supervisors as defined in the Act. The Employer claims that the only appropriate unit would include manufacturing employees and all installers employed by the Employer in Monroe, Miami-Dade, Broward, Palm Beach, Lee, and Collier counties in Florida, excluding pipefitters, guards, clerical workers, and supervisors as defined in the Act. While the Petitioner asserts that the petitioned-for unit constitutes a single-facility unit and is therefore presumptively appropriate, the Petitioner is willing to proceed to an election if the unit it seeks to represent is deemed inappropriate and an alternate unit is found to be appropriate. There are approximately 30 installation employees in Miami-Dade County, 20 installation employees in Broward County, 40 installation employees in Palm Beach County, ten employees in Lee and Collier counties, and ten employees⁴ in the Broward shop at 2125 S. Andrews Avenue, in Fort Lauderdale.

Employer's Operations

The Employer has three facilities in Florida located at 2125 S. Andrews Avenue in Fort Lauderdale, 3921 Westgate Avenue in West Palm Beach, and 4451 Mercantile Avenue in

⁴ It appears this figure for the shop includes some employees who are not engaged in manufacturing ductwork.

Naples.⁵ The distance between the Fort Lauderdale and Naples facilities is approximately 102 miles.⁶

The fabrication activities are situated in one of three buildings at 2125 S. Andrews Avenue in Fort Lauderdale, where the Employer manufactures different types of duct⁷ including sheet metal duct, fiberglass duct systems, and flexible duct systems.⁸ Said facility was recently expanded whereby two separate facilities were established, one for the production of sheet metal duct and another for the production of fiberglass duct and flexible duct systems.

Joe Polvinale, the general manager, testified with regard to the Employer's operations. He reports directly to Chip Lafferty, the Chief Executive Officer. Employer's Exhibit 1 is the job description for Mr. Polvinale which states that the general manager will possess "an upper level authority" over estimating, sketching and coordination, ductwork manufacturing, installation, expansion of the fabrication shop and equipment, and other miscellaneous tasks. The Employer asserts that the general manager position was created for the purpose of centralizing operations.

Ductwork Operations

The Employer manufactures all fiberglass duct and flexible duct systems and most of the sheet metal duct installed at construction job sites. With respect to sheet metal duct, 50 percent of the duct installed in Miami-Dade County is purchased from outside sources, 30 to 40 percent of the duct installed in Broward County is purchased from outside sources, 65 percent of the duct installed in Palm Beach County is purchased from outside sources, and 85 percent to 90 percent of the duct installed in the Naples area is purchased from outside sources. The duct that is

⁵ All references to the Naples area herein pertain to the geographic area on the west coast of Florida from Sarasota to Collier County.

⁶ The record contains no information with respect to the distance between the Fort Lauderdale and West Palm Beach facilities.

⁷ A duct is used for the conveyance of heated or ventilated air conditioning in buildings.

manufactured by the Employer is not sold to other companies for installation. The duct is first assembled at the Employer's fabrication shop in Broward County then delivered to the various job sites ready for installation. At the time of the hearing there were six job sites in the Naples area, 12 to 15 job sites in Palm Beach County, and a total of 20 job sites in Broward and Miami-Dade counties, 60 percent of which were in Miami-Dade and the remainder in Broward County.

Fabrication Shop:

The Broward fabrication shop located in Fort Lauderdale, Florida is a department within the ductwork operations. The fabrication shop structure includes a shop manager, manufacturing personnel, and a truck driver. The shop manager is responsible for fabrication, and delivery of sheet metal, fiberglass and flexible duct systems, purchase of related equipment and accessories, and planning and coordinating the release and delivery of equipment and accessories required for projects and duct systems, purchases from vendors or suppliers, and ensuring raw goods and products are stocked. The shop manager is also responsible for monitoring the staffing level in the shop, scheduling, and ensuring that production requirements are met. In addition, the shop manager reports directly to the general manager and gives advice as to the need for additional personnel. The shop manager interviews applicants, hires shop personnel, and has the authority to negotiate wage rates with supervision by the general manager. The shop manager may recommend wage rates, promotions and raises to the general manager which are routinely followed. The general manager determines overtime work within the shop.

The manufacturing personnel in the shop rotate in the performance of the following functions associated with the fabrication of duct: roll forming, laying out, bending, working on

⁸ Sheet metal duct work is galvanized sheet metal of various gauges; fiberglass duct work is a fibrous duct board of various thickness and density; and flexible duct systems refers to a prefabricated duct system used to extend a branch duct.

shears, knocking, assembly, gluing, sealing, spot welding, and lining. The truck driver is responsible for scheduling and delivering materials and goods to the job sites. The driver employed at the Fort Lauderdale fabrication facility spends 99 percent of the time delivering materials manufactured at that location to job sites.

Shop personnel are paid on an hourly basis.

Installations:

Installations is another aspect of the ductwork operations. Installation work is the process of installing duct at the job sites located in Miami-Dade, Broward, Palm Beach, Collier and Lee counties. The fabricated materials described above are either transported to the jobs by the driver who is based at the Fort Lauderdale fabrication shop or by a driver from one of the other two facilities in West Palm Beach or Naples depending on the availability of trucks.

Installation work is performed by individuals in four job categories, collectively identified as field personnel or installers. Their work entails handling ducts, hangers (which are used to secure duct in place), fans, VAV boxes, air flow monitors, static pressure sensors, and various dampers. The number of installers on a job site is dependent on the size of the project and the stage of construction. Staffing on job sites is consistently comprised of helpers, mechanics, journeymen, and foreman.⁹ The skills of the individuals on the job sites conform with the positions they hold. Installers work with their tools which include battery powered drills, cords, combination punches, double cutting devices, staple guns, hammer drills, power driven drills, air or electric chisels, and cutting saws. They are not required to provide their own tools. The foremen¹⁰ and journeymen on all jobs have similar skills and qualifications. In addition to handling manpower, they must be able to read construction plans and shop drawings,

⁹ The parties interchangeably used the terms foreman and leadman in the transcript.

¹⁰ Neither party asserts that the foremen should be excluded from the bargaining unit as statutory supervisors.

know where to place equipment and know how to efficiently install materials at the job site, read related architectural and structural drawings, and adhere to contract documents and duct construction standards. The foremen and journeymen must possess a journeyman card and have mechanic skills.

There are two labor managers based on the east coast of Florida¹¹ who supervise the foremen at the job sites in their respective areas. The labor managers report directly to the general manager who manages, supervises, and directs them. There is no labor manager in the Naples area. Rather, the Naples project manager performs a similar job function and reports directly to the vice president and manager of the Naples operation.¹² The manager of the Naples operation reports to Chip Lafferty, the Chief Executive Officer.

The labor managers determine promotions, raises, and overtime work in the field after consulting with the general manager. The labor managers may negotiate wage rates, although the Employer does also maintain pay ranges for the various job site classifications.¹³ The labor managers may recommend merit increases to the general manager for approval. With respect to staffing levels, the labor managers participate in weekly staff meetings with the general manager. The labor managers independently decide if there is a need to add additional personnel and communicate their specific needs to the general manager at the weekly meetings. The general

¹¹ Fred Able, the labor manager for Palm Beach County and all points north, is based at the 3921 Westgate Avenue facility in West Palm Beach, Florida. Richard Polvinale is the labor manager for Miami-Dade and Broward Counties and all points south and a bit west with an office located on the compound at 2125 S. Andrews Avenue in Fort Lauderdale. The general manager is Joe Polvinale.

¹² Bob Reiss is the project manager for the Naples area. Gary Horton is the vice president and manager of the Naples operation.

¹³ The wage ranges for field personnel are based upon experience. The wage ranges are as follows: helpers are \$6.00 to \$9.00 per hour; mechanics are \$9.00 to \$12.00 per hour; and journeymen are \$12.00 to \$16.00 per hour. The record reveals that the foremen wage rate begins at \$16.00. These wage ranges are not maintained in written form. The Employer's general manager testified that despite the wage ranges, wages remain "negotiable," but that he would be "advised" if the range was exceeded. When asked if the wage ranges were the same for different areas, the Employer's general manager replied, "Pretty much."

manager advises the labor managers of upcoming new projects so they may prepare and determine how to move or transfer their crews. The general manager and the labor managers jointly decide if recruitment or transfer of field personnel is required. The record reveals that the general manager is "generally" the one who would be responsible for placing employment ads in the local newspapers. The actual hiring of field personnel is performed by the labor managers at their respective office locations and not on the job sites. The labor manager assigns the field personnel to a job site until completion of the project at which time they are reassigned by the labor manager to a new job site. With regard to work assignments to areas outside of their respective jurisdictions, the labor managers meet to discuss and decide such issues. Factors which impact the decision to assign field personnel to work in other areas include an abundance of work, a specific need elsewhere, or a specific request for an employee made by a customer (which does not happen often).

The project manager and manager in the Naples area make the decisions with respect to hiring and staffing levels for that area.

Sketching:

The Employer attributes its success in obtaining projects to the in-house engineering and design capabilities it offers. Following an estimate¹⁴ of the work to be performed and the award of a project, the sketchers incorporate the duct work into the construction plans in accordance with the generally accepted SMACNA standards for duct work fabrication and installation. There is a sketching manager and three sketchers¹⁵ who work in an air conditioned building located on the Fort Lauderdale compound, which is separate from the two fabrication facilities at

¹⁴ The Employer employs three estimators and one estimator manager based in the Fort Lauderdale facility. The estimators determine the cost for the duct work on all jobs performed by the Employer. Neither of the parties contend that the estimators should be included in an appropriate unit.

¹⁵ The sketcher manager is Larry Hunt. The sketchers are Glen Asbury, Peter Barrizonte, and Bob Blanchard.

the same address which are not air conditioned. Sketchers are required to possess knowledge of the computer assisted drafting system (CAD) and have prior work experience in the industry either in the field, as an engineer, or consultant. Sketchers draw on the construction plans prepared for job sites utilizing computer equipment furnished by the Employer, scale rulers, and pencils. The drawings reflect the routing of the duct work and location of accessories and equipment. The duct work materials are fabricated and installed in accordance with the information contained on the final drawings drafted by the sketchers. The sketching manager reports directly to the general manager.

Truck Drivers:

The truck drivers are a separate job classification within the fabrication operations. There is one truck driver based at the Fort Lauderdale facility whose job responsibilities primarily entail delivering duct to the job sites. As noted previously, he works under the shop manager. There is one driver based in West Palm Beach. The record does not disclose the number of truck drivers employed at the Naples area facility. With respect to the truck drivers in West Palm Beach and the Naples area, since those drivers have more time available, they transport duct and other equipment including the air conditioning equipment for pipefitters¹⁶ to job sites. The truck driver in West Palm Beach reports to the labor manager in that area. The record reveals that in West Palm Beach there is one individual referred to as a fabrication employee who cuts fiberglass duct board and prepares fiberglass duct utilizing a fiberglass machine inside a garage located on the premises in West Palm Beach. This individual also performs some truck driving duties.¹⁷

¹⁶ Pipefitters are a separate trade currently represented by another labor organization that has a collective bargaining agreement in effect with the Employer.

¹⁷ There is insufficient evidence in the record to determine if this particular fabrication employee, whose name was not disclosed, is the same truck driver for the West Palm Beach facility otherwise described herein.

Degree of Employee Interchange

The Employer does not often send shop employees to the job sites but when this occurs, they perform the same job functions as installers commensurate with their skills. The record reveals two specific instances when Fort Lauderdale shop employees Mike King, and King's nephew whose name was not disclosed in the record went to work at a Renaissance project, and Guillermo Casteneda went out to work at other job sites.¹⁸ The record reveals that these individuals did not work more than a week at a time and no more than 10 percent of their total time in an unspecified period. The Employer seeks to limit such assignments so they do not exceed more than once a week in an unspecified period. The individuals identified above were sent out to work for less than five weeks in a year's period. Shop employees may be sent to job sites during weekends on projects involving overtime. At the time of the hearing, there were three to four shop employees performing overtime work on weekends at jobsites where they were not regularly assigned. There have been no instances where a shop employee was transferred to the Naples area as an installer on a temporary or permanent basis.

The record evidence reveals that installers apparently rarely visit or report to the Fort Lauderdale facility. Instead, they are "dispatched" to their respective job sites. In pressing conditions on a project, the Employer will send installers from Miami-Dade and Broward counties to assist on a job site in Palm Beach County. The general manager testified that the Employer does not like to do this. The record contains information on one specific instance a couple of months prior to the hearing in this matter where several installers from Broward were sent to a Meisner project in Boca Raton located in Palm Beach County to help install duct work. In that situation, there was pressure to complete a project. The Employer transferred the

¹⁸ The record does not reflect the location of the job sites.

Broward field personnel for "a couple of months" to assist the West Palm Beach field personnel with this effort. The Employer also generally contends that, "We've had similar situations over in Naples, where we've had projects where that [sic] we've sent people to aid and assist." There has never been a situation where field personnel from West Palm Beach were sent to Broward County job sites because West Palm Beach is considered to be understaffed.

Sketchers are required to attend coordination meetings held at the job sites prior to finalization and submission of drawings for fabrication. The participants in this meeting are the labor manager (or project manager in the Naples area), the foreman, and non-employee participants including the general contractor, the plumber, the electrician, and the sprinkler contractor. The installers do not participate in these coordination meetings. During these meetings, and throughout the course of construction, the sketchers are advised of changes or problems at the job site that may affect the duct work drawings. Aside from the coordination meeting, the record reveals that the sketchers may visit the job sites on other occasions, also. The Employer supplies a Nextel telephone/radio to the foreman at every job site which is used to contact sketchers in the office. Sketchers use their personal vehicles for transportation to job sites.

The truck drivers are not normally required to perform installation work. In Fort Lauderdale, however, if someone calls in sick, the driver may be required to fill in for that person in ductwork operations.¹⁹ The truck drivers do not otherwise work with tools. Shop workers assist the drivers in loading fabricated materials onto the truck. At the job site, installers assist the drivers in the process of unloading the fabricated materials. The truck driver in West Palm Beach uses a truck to pick up loads from Fort Lauderdale on those occasions when a truck is not

¹⁹ The record does not contain any specific information on how frequently this occurs.

available for deliveries.²⁰ Similarly, the truck driver from Naples also picks up loads from Fort Lauderdale when necessary. All trucks driven by the truck drivers are owned by the Employer.

Other Working Conditions

All employees in the ductwork operations receive the same fringe benefits which include a 401(k) plan and an insurance plan. The same holidays are recognized in all areas of the Employer's operations. Paychecks for all employees are generated at the Fort Lauderdale facility where the central accounting office is located. The paychecks are delivered to the various job sites by either the labor manager for the respective area or the truck driver based in Fort Lauderdale. The Employer participates in the ABC training and apprenticeship programs which are available to all employees; at the time of the hearing there were ten employees actively participating in this training program.²¹ Sketchers and shop workers begin the work day at 7:00 a.m. The Employer has a dress code policy for the following employees: shop workers and field personnel in the Palm Beach, Miami-Dade, and Broward counties have a choice of wearing a light or dark blue T-shirt with the Employer's logo on the front; sketchers and labor managers wear casual attire which consists of dockers, slacks, polo-type shirt, or a shirt with a collar with the Employer's logo on the front; white hard hats are supplied to all employees; and hard toed shoes or construction boots are required to be worn while present on a job site.

Bargaining History

The Petitioner introduced various documents for the purpose of establishing a prior bargaining history with the Employer and called Harley McDougall, the business manager, to

²⁰ The record does not contain any specific information on how frequently this occurs.

²¹ The apprenticeship program has produced employees in the following classifications: helper, mechanic, installer, journeyman, foreman, and fabricator.

testify with regard to this history.²² McDougall testified that prior to 1984, the Petitioner was formerly known as Local 223. McDougall was a former officer of Local 223. The jurisdiction of Local 223 covered Miami-Dade, Broward and Monroe counties. West Palm Beach, Henry, Glades, Indian River, and Martin counties were in the jurisdiction of Local 130. In 1984, Local 223 merged with Local 130 to become what is presently called Local 32. The jurisdiction for Local 32 presently includes West Palm Beach, and Miami-Dade, Broward, Monroe, Martin, Indian River, Glades, Henry, and Okeechobee counties. Collier and Lee counties are considered to be "swing" counties.²³

McDougall testified that he became familiar with the name "Hill York" by virtue of a contractual relationship with an entity called Hill York Sales located in North Miami. McDougall also testified about various expired collective bargaining agreements executed by entities believed to be affiliated with the Employer, its owners and its officers. Evidence was received with respect to contribution payments and dues check-off obligations by these entities in 1984. A notice of cancellation for a bond dated November 6, 1987, issued in connection with requirements set forth in a collective bargaining agreement with one of these entities was also received into evidence. McDougall further testified that the work crews who performed work for the various entities were the same individuals.

Herbert Dell, president of the Employer, testified that the owners of the Employer are himself, Robert S. Lafferty, Jr., Robert W. Lafferty, Jeff Phillabaum, Gary Horton and Carl

²² In 1961, McDougall was employed as a sheet metal worker and also served as an executive board member for Local 223 which is a non-paying position. Executive board members participate in negotiating contracts. In 1976, McDougall was elected as business manager for Local 32, the Petitioner herein.

²³ The Employer claims that testimony by McDougall with regard to "swing" counties is an indication that the installers working in Collier and Lee counties would be covered by any collective bargaining agreement negotiated for the proposed unit. However, the Petitioner has requested herein a unit limited to installers working in Broward and Miami-Dade counties. Such a unit determination by the undersigned would not provide the basis for including installers working in Collier and Lee counties in a collective bargaining agreement at this time.

Duxbury. Dell states that there is no relationship between the Employer and the various entities identified by the Petitioner.²⁴ He concedes that the Employer is a successor to Hill York Broward Incorporated, a commercial air conditioning contractor owned by Bob Lafferty²⁵, Peter Goetzman, Gene Petry, and Charles Daniels. While Hill York Broward Incorporated was in operation, there was an entity called Hill York Company which operated in Dade County. Bob Lafferty was affiliated with Hill York Company as either the general manager, owner, or president. Hill York Company was an air conditioning contractor with work primarily based in Dade County. When Hill York Company went out of business, many of its employees began to work for Hill York Broward Incorporated. Hill York Broward Incorporated operated for about 40 years before the name changed to Hill York Corporation approximately 10 years ago. The website information received into evidence as Petitioner's Exhibit 5 refers to the history of Hill York Company and Hill York Corporation.

Analysis

As noted above, the Petitioner seeks to represent a bargaining unit consisting only of all employees employed at 2125 S. Andrews Avenue in Fort Lauderdale, Florida engaged in the manufacture of heating, ventilation, and air conditioning duct work and those engaged in the installation of heating, ventilation and air conditioning duct work in Miami-Dade and Broward counties in Florida. The Employer argues that the only unit appropriate for bargaining is one comprised of installers working in Monroe, Miami-Dade, Broward, Palm Beach, Lee, and Collier counties in addition to shop workers, drivers, and sketchers.

It is well established that the Board's task in making unit determinations is not to

²⁴ The entities identified include Razorback Sheet Metal Company and Hill York Sales Corporation.

²⁵ It is not clear if "Bob" Lafferty is the same person as Robert S. Lafferty, Jr. or Robert W. Lafferty. Bob Lafferty, Jr. is also referred to as "Chip" Lafferty in the record.

determine the most appropriate or comprehensive unit but simply an appropriate unit. Executive Resources Associates, 301 NLRB 400, 401 (1991); Morand Brothers Beverage Co., 91 NLRB 409 (1950), enfd. 190 F.2d 576 (7th Cir. 1951); Gateway Equipment Co., 303 NLRB 340 (1991). In assessing the appropriateness of the unit, the undersigned is guided by several criteria for determining whether proposed unit employees share a community of interest, including similarity in employee skills, job duties, and working conditions, supervision, functional integration, employee interchange, geographic proximity of facilities, and collective-bargaining history. Oklahoma Installation Co., 305 NLRB 812 (1991); Carson Cable TV, 795 F.2d 879, 884-885 (9th Cir. 1986). On the facts presented, I find that a unit encompassing the Fort Lauderdale manufacturing facility and the job sites in Miami-Dade and Broward counties is appropriate.

In reaching this conclusion, the Employer's reliance on recent efforts to restructure the ductwork operations, integrate installation work, and centralize personnel administration are noted. To some extent, the record demonstrates these efforts. The Employer maintains a company-wide policy with respect to holidays and fringe benefits, arranged a centralized payroll and accounting system, and recently hired a general manager who is responsible for granting merit increases, and implementing the integration of the duct operations. After considering the balance of salient factors relevant to the designation of an appropriate bargaining unit, it is clear that the Employer's administrative efforts to concentrate operations on a statewide level do not outweigh the substantial community of interest factors supporting a unit comprised of the Fort Lauderdale manufacturing facility and the installation employees who work at job sites located in Miami-Dade and Broward counties.

The record reveals that the Employer has divided its installations operations into three geographic areas located in Naples, West Palm Beach, and Fort Lauderdale. The record also reveals that job sites are dispersed throughout these three areas. The job sites in Miami-Dade and Broward counties fall within the jurisdiction of the Fort Lauderdale facility. There is substantial evidence to support the conclusion that field personnel employed at job sites in Miami-Dade and Broward counties possess the same skills, use the same types of tools, perform the same jobs, wear the same uniforms, and are otherwise subject to the same or similar working conditions. While the record discloses that many of the same working conditions apply to field personnel employed at job sites in the jurisdiction of the West Palm Beach and Naples facilities, it is clear that field personnel at job sites in Miami-Dade and Broward counties are separately supervised by the labor manager who is based in Fort Lauderdale.

Moreover, with regard to the factor of interchange, there are significant numbers of transfers among field personnel who work at job sites in Miami-Dade and Broward counties inasmuch as the Fort Lauderdale labor manager has authority to routinely assign these field personnel to job sites within these counties. The generalized and limited testimony concerning instances of temporary transfers of personnel from Broward County to West Palm Beach and Naples and of overtime work performed on weekends, fails to provide support for the finding that a broader unit is required. Additionally, the geographic proximity of the job sites within Miami-Dade and Broward counties is a factor to consider. Distance weighs against the inclusion of field personnel employed at job sites covered by the Naples and West Palm Beach facilities. Indeed, the record reveals that the Naples operations, where job sites are dispersed from Sarasota to Collier County, is 102 miles from the Fort Lauderdale operation, and there have been job sites covered by the West Palm Beach operations located as far north as Melbourne and St. Lucie

County. Furthermore, a unit composed of employees in Miami-Dade and Broward counties conforms with the administrative division already established by the Employer for its installation work.²⁶

Accordingly, I shall direct an election among field personnel employed at job sites within Miami-Dade and Broward counties.

The Employer contends in its brief that sketchers and truck drivers should be included in the appropriate unit. The Board applies the same traditional community of interest factors here as well.

The record reveals that sketchers perform different work, possess different skills, use different equipment, wear different uniforms, and have separate immediate supervision from shop personnel and field personnel based at the Fort Lauderdale facility. The record also reveals that sketchers are located in an air conditioned building at the Fort Lauderdale compound which is physically separate from where the fabrication shop is located. While there is record evidence which establishes that sketchers meet on a regular basis with labor managers, foremen, general contractors and subcontractors, there is no specific evidence regarding any interaction or contact with installers. Thus, it appears the sketchers have minimal contact with shop personnel and field personnel, share a remote community of interest with shop personnel and field personnel, and possess work skills the content of which are more technical in nature, bearing no relationship to those of the shop personnel and field personnel. See Weldun International, Inc., 321 NLRB 733 (1996). In view of the above, the sketchers should be excluded from the petitioned-for unit.

²⁶ Petitioner argues that the parties have a relevant history of collective bargaining. Based on the record evidence, I am unable to conclude that this is the case. As for the Petitioner's argument that a single facility presumption should apply to the Employer's Miami-Dade and Broward operations, it appears the Petitioner is incorrect. However, if the presumption applies, the same unit determination would be reached herein.

There is one truck driver employed at the Employer's Fort Lauderdale facility who regularly performs his job duties in close proximity to shop personnel and field personnel and is often assisted by these personnel in the performance of the loading and unloading aspects of his job. The record reveals that from time-to-time the truck driver fills in for personnel within the ductwork operations. The truck driver is also commonly supervised by the shop manager. Accordingly, I find that the truck driver shares a sufficient community of interest with the petitioned-for unit employees and should be included in the appropriate unit herein.

Accordingly, in view of the foregoing, and the record as a whole, I find that the following employees of the Employer constitute an appropriate unit for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All employees engaged in the manufacture of heating, ventilation, and air conditioning ductwork and truck drivers employed at the Employer's facility at 2125 S. Andrews Avenue, Fort Lauderdale, Florida, and installers employed at job sites in Miami-Dade and Broward counties, excluding sketchers, pipefitters, clerical workers, guards, and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are installation employees in the unit who meet the established eligibility formula for construction employees as set forth in Steiny and Company, Inc., 308 NLRB 1323 (1992) and Daniel Construction Co., 133 NLRB 264 (1961). Also eligible are employees engaged in an economic strike which commenced less than 12

months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.²⁷ Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by Sheet Metal Workers International Association, Local Union 32, affiliated with Sheet Metal Workers International Association, AFL-CIO.²⁸

DATED at Tampa, Florida, this 11th day of February, 2000.

/s/Rochelle Kentov
Rochelle Kentov, Regional Director
National Labor Relations Board, Region 12
201 E. Kennedy Boulevard, Suite 530
Tampa, Florida 33502

440-3300
420-4600
420-6200

²⁷ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); N.L.R.B. v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that two (2) copies of an election eligibility list, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director for Region 12 within 7 days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359 (1994). In order to be timely filed, such list must be received by the Regional Office, SouthTrust Plaza, Suite 530, 201 E. Kennedy Boulevard, Tampa, Florida 33602-5824 on or before February 18, 2000. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

²⁸ Under the provisions of Section 102.67 of the Board's Rules and Regulations, Series 8, as amended, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, DC 20570-0001. This request must be received by the Board in Washington, DC by February 25, 2000.